

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Case No.: 7:07-CV-00064

MICHAEL S. ADAMS,

*Plaintiff,*

v.

THE TRUSTEES OF THE UNIVERSITY OF  
NORTH CAROLINA-WILMINGTON, et al.

*Defendants.*

**PLAINTIFF'S MOTION FOR  
ATTORNEYS' FEES & NON-TAXABLE COSTS**

HON. MALCOLM J. HOWARD

Plaintiff Michael S. Adams, by and through counsel, and pursuant to 42 U.S.C. § 1988 and FED. R. CIV. P. 54(d), respectfully moves this Honorable Court for an award of attorney's fees and expenses against Defendants. In addition, Dr. Adams moves for an award of his related non-taxable expenses against said parties. In support of his Motion, Dr. Adams states as follows:

1. Following the jury's verdict in Dr. Adams' favor, *see* Verdict Form, Mar. 20, 2014, ECF No. 222, this Court entered judgment in his favor. *See* Judgment, Mar. 20, 2014, ECF No. 226.

2. On April 8, 2014, this Court issued an order and judgment awarding Dr. Adams promotion to the rank of full professor and \$50,000 in back pay. *See* Order at 4–5, Apr. 8, 2014, ECF No. 235; Judgment, Apr. 8, 2014, ECF No. 236.

3. This Motion is filed and served on April 23, 2014, in accordance with this Court's order to file such motions within fifteen days of the April 8, 2014 judgment. *See* Order at 7, ECF No. 235.

4. In support of this Motion, Dr. Adams relies on the following exhibits:

- 1) A task-based itemized statement of fees and non-taxable expenses for the case, attached as Exhibit 1;
- 2) Declaration of David A. French supporting the present Motion, attached as Exhibit 2;
- 3) Declaration of Jordan W. Lorence supporting the present Motion, attached as Exhibit 3;

- 4) Declaration of David A. Cortman supporting the present Motion, attached as Exhibit 4;
- 5) Declaration of Gary S. McCaleb supporting the present Motion, attached as Exhibit 5;
- 6) Declaration of Kevin H. Theriot supporting the present Motion, attached as Exhibit 6;
- 7) Declaration of Gregory S. Baylor supporting the present Motion, attached as Exhibit 7;
- 8) Declaration of Nathan W. Kellum supporting the present Motion, attached as Exhibit 8;
- 9) Declaration of Austin R. Nimocks supporting the present Motion, attached as Exhibit 9;
- 10) Declaration of Byron J. Babione supporting the present Motion, attached as Exhibit 10;
- 11) Declaration of Steven H. Aden supporting the present Motion, attached as Exhibit 11;
- 12) Declaration of Joseph P. Infranco supporting the present Motion, attached as Exhibit 12;
- 13) Declaration of R. Michael Schmidt supporting the present Motion, attached as Exhibit 13;
- 14) Declaration of David J. Hacker supporting the present Motion, attached as Exhibit 14;
- 15) Declaration of Travis C. Barham supporting the present Motion, attached as Exhibit 15;
- 16) Declaration of Joseph J. Martins supporting the present Motion, attached as Exhibit 16;
- 17) Declaration of J. Matthew Sharp supporting the present Motion, attached as Exhibit 17;
- 18) Declaration of Rory T. Gray supporting the present Motion, attached as Exhibit 18;
- 19) Declaration of Anna G. Hayes supporting the present Motion, attached as Exhibit 19;
- 20) Declaration of Amanda Rossiter supporting the present Motion, attached as Exhibit 20;
- 21) Declaration of Heather N. Wilson supporting the present Motion, attached as Exhibit 21;
- 22) Declaration of Lakeila R. Meadows supporting the present Motion, attached as Exhibit 22;
- 23) Declaration of Michele L. Schmidt supporting the present Motion, attached as Exhibit 23;
- 24) Declaration of Pamela S. Paulk supporting the present Motion, attached as Exhibit 24;
- 25) Declaration of Terry K. Boggs supporting the present Motion, attached as Exhibit 25;
- 26) Declaration of Phillip J. Strach supporting the present Motion, attached as Exhibit 26;

- 27) Declaration of Robert D. Potter, Jr. supporting the present Motion, attached as Exhibit 27;
- 28) Declaration of G. Eugene Boyce supporting the present Motion, attached as Exhibit 28;
- 29) Plaintiff's Memorandum in Support of His Motion for Attorneys' Fees and Non-Taxable Costs; and
- 30) Proposed Order Granting Plaintiff's Motion for Attorney's Fees and Non-Taxable Costs.

5. The billing rates for attorney the attorneys, paralegals, and legal assistants involved in this case are as follows:

<b>Name</b>	<b>Role</b>	<b>Hourly Rate</b>
David A. French	Attorney	\$400.00
Jordan Lorence	Attorney	\$400.00
David A. Cortman	Attorney	\$400.00
Gary S. McCaleb	Attorney	\$400.00
Kevin H. Theriot	Attorney	\$400.00
Gregory S. Baylor	Attorney	\$400.00
Nathan W. Kellum	Attorney	\$400.00
Austin R. Nimocks	Attorney	\$400.00
Byron J. Babione	Attorney	\$400.00
Steven H. Aden	Attorney	\$400.00
Joseph P. Infranco	Attorney	\$400.00
R. Michael Schmidt	Attorney	\$295.00
David J. Hacker	Attorney	\$295.00
Travis C. Barham	Attorney	\$295.00
Joseph J. Martins	Attorney	\$295.00
J. Matthew Sharp	Attorney	\$295.00
Rory T. Gray	Attorney	\$295.00
Anna G. Hayes	Legal Assistant	\$102.00
Amanda Rossiter	Legal Assistant	\$102.00
Heather N. Wilson	Administrative Assistant	\$102.00
Lakeila R. Meadows	Paralegal	\$102.00
Michele L. Schmidt	Paralegal	\$102.00
Pamela Paulk	Legal Assistant	\$102.00
Terry K. Boggs	Legal Assistant	\$102.00

Throughout this case, three attorneys—a senior counsel and two associates—and a legal assistant or

paralegal had primary responsibility for the litigation. Mr. French served as the senior counsel, except when military deployments called him away. Then Messrs. Kellum, Aden, and Lorence temporarily filled his role at different times. Mr. Hacker and Mr. Barham initially served as the associates on the case. Mr. Martins later took Mr. Hacker's place until he left Alliance Defending Freedom for another position. Then Mr. Hacker resumed his initial position. The role of primary legal assistant or paralegal on the case has, at different times, been filled by Miss Rossiter, Mrs. Schmidt, Mrs. Boggs, Mrs. Meadows, and Mrs. Paulk. The rest of the attorneys and support staff served in a supportive capacity and their hours have been reduced accordingly, as their respective declarations and the itemized fee statement detail.

6. The total number of hours expended in this case through the close of business on April 22, 2014 is 4,394.0, worth \$1,348,214.70 in attorneys' fees.<sup>1</sup> In this Motion, Dr. Adams seeks attorneys' fees for 3,341.2 hours, worth \$1,025,484.20 (a reduction of almost 24%). These attorneys' fees relate exclusively to the attorney, paralegal, and legal assistant time incurred in connection with Dr. Adams' prosecution of claims against Defendants before this Court and before the U.S. Court of Appeals for the Fourth Circuit.

7. The amount of Dr. Adams' related non-taxable expenses for this case is \$24,212.87, as itemized in the accompanying fee statement. *See* Ex. 1.

8. Adding the fees and expenses, the total amount sought in this Motion at this time amounts to \$1,049,697.07. *See* Ex. 1.

9. Dr. Adams reserves the right to supplement this motion to seek additional attorneys' fees and expenses, if needed.

---

<sup>1</sup> This does not include any fees incurred so far by Messrs. Strach, Boyce, and Potter, who will submit their hours to Dr. Adams' counsel in time for the reply supporting this Motion.

Respectfully submitted this 23rd day of April, 2014,

*/s/ David A. French*

---

DAVID A. FRENCH  
Tennessee Bar No. 16692  
Kentucky Bar No. 86986  
AMERICAN CENTER FOR LAW & JUSTICE  
230 Franklin Road, Building 2A  
Franklin, Tennessee 37064  
Telephone: (931) 446-7572  
Facsimile: (615) 345-6009  
dfrench@aclj.org

*/s/ Robert M. Schmidt*

---

ROBERT M. SCHMIDT  
North Carolina Bar No. 12545  
PATRICK HENRY JUSTICE CENTER  
444 South Main Street  
Laurinburg, North Carolina 28352  
Telephone: (910) 266-9017  
Facsimile: (910) 266-9006  
lawofliberty@bellsouth.net  
LR 83.1 Counsel

TRAVIS C. BARHAM  
Arizona Bar No. 024867  
Georgia Bar No. 753251  
ALLIANCE DEFENDING FREEDOM  
1000 Hurricane Shoals Rd., N.E., Suite D-1100  
Lawrenceville, Georgia 30043  
Telephone: (770) 339-0774  
Facsimile: (770) 339-6744  
tbarham@alliancedefendingfreedom.org

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that on April 23, 2014, I electronically filed Plaintiff's Motion for Attorneys' Fees and Non-Taxable Costs, and accompanying exhibits, with the Clerk of Court using the CM/ECF system, which automatically sends an electronic notification to the following attorneys of record:

KIMBERLY D. POTTER  
Special Deputy Attorney General  
NORTH CAROLINA DEPARTMENT OF JUSTICE  
P.O. Box 629  
Raleigh, North Carolina 27602  
Telephone: (919) 716-6920  
Facsimile: (919) 716-6920  
kpotter@ncdoj.gov  
L.R. 83.1 Counsel

Stephanie A. Brennan  
Assistant Attorney General  
NC State Bar No. 35955  
NORTH CAROLINA DEPARTMENT OF JUSTICE  
P.O. Box 629  
Raleigh, North Carolina 27602  
Telephone: (919) 716-6920  
Facsimile: (919) 716-6764

**ATTORNEYS FOR DEFENDANTS**

Respectfully submitted on this the 23rd day of April, 2014,

*/s/ Travis C. Barham*

---

TRAVIS C. BARHAM  
Arizona Bar No. 024867  
Georgia Bar No. 753251  
ALLIANCE DEFENDING FREEDOM  
1000 Hurricane Shoals Rd., N.E., Suite D-1100  
Lawrenceville, Georgia 30043  
Telephone: (770) 339-0774  
Facsimile: (770) 339-6744  
tbarham@alliancedefendingfreedom.org